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March 25, 2005

ORIGINAL

Our File No. 20743-00103-63

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

MAR 25 2005

Federal Communications Commission
Office of Secretary

Re: Pacific Telestations, Inc.
Television Broadcast Station KUAM-TV
Hagatna, Guam
FCC File No. BEPCDT-20040220AAD
**RULEMAKING TO AMEND THE DTV TABLE OF ALLOTMENTS AND
REQUEST FOR WAIVER OF FREEZE**

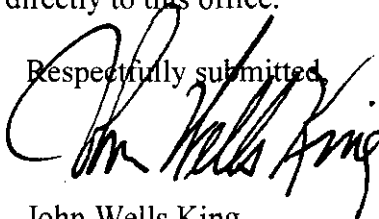
Dear Ms. Dortch:

On behalf of Pacific Telestations, Inc., licensee of Television Broadcast Station KUAM-TV, Hagatna, Guam, and associated Digital Television Station KUAM-DT, I transmit herewith the original and four copies of its Petition for Rulemaking to amend the DTV Table of Allotments, to substitute DTV Channel 10 for its allotted DTV Channel 2.

The Petition includes a request for waiver of the current freeze on the filing of petitions to amend the DTV Table of Allotments, for good cause shown.

Kindly communicate any questions directly to this office.

Respectfully submitted,

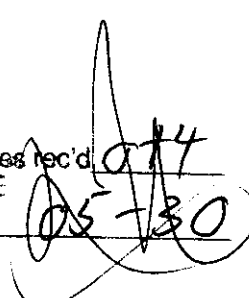


John Wells King

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
MAR 25 2005

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.622(b))
Table of Allotments,)
Digital Television Broadcast Stations)
(Hagåtña, Guam))
)

MM Docket No. _____
RM- _____

To: Chief, Policy Division
Media Bureau

**PETITION FOR RULE MAKING TO AMEND THE DTV TABLE OF ALLOTMENTS
AND
REQUEST FOR WAIVER OF FREEZE**

Pacific Telestations, Inc. ("PTI"), licensee of Television Broadcast Station KUAM-TV, and permittee of unbuilt Digital Television Broadcast Station KUAM-DT, Hagåtña, Guam, by its attorneys and pursuant to Sections 1.401 and 73.622(a) of the Commission's Rules (47 C.F.R. §§1.401 and 73.622(a)), hereby respectfully petitions the Commission to institute a rulemaking to amend Section 73.622(b), the DTV Table of Allotments, by substituting Channel 10 as the station's paired DTV allotment in lieu of Channel 2, as originally allotted. PTI also requests a waiver of the current freeze on the filing of petitions for rulemaking to change DTV channels within the DTV Table of Allotments.¹ In support of the requested relief, PTI states as follows:

¹ Public Notice, "Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes," DA 04-2446, released August 3, 2004.

Request for Waiver

PTI has sought and, until March 2005, has been granted, extensions of time in which to construct the KUAM-DT facilities. By Order released March 15, 2005 (FCC 05-67), however, the Commission denied PTI's request for further extension, on the ground that PTI had not justified its inability to complete construction.

One of the bases for PTI's request is that it has intended to pursue a change in DTV allotment from Channel 2 to Channel 10. Due largely to unforeseeable circumstances, PTI was unable to initiate the channel change project before the Commission imposed the current freeze. The Commission's denial of PTI's extension request compels it to go forward immediately with construction, the first step of which is to change DTV channels, and hence, the filing of this petition.²

A grant of waiver and acceptance of this petition would not be inconsistent with, nor would it undermine, the Commission's purposes in imposing the freeze. A grant will serve the public interest.

The freeze was deemed necessary in order to ensure a stable television database during the channel election process. A static database enables broadcasters to evaluate stations' technical parameters and to facilitate channel elections and the creation of a new DTV Table of Allotments. *Supra* Note 1 at 2.

The Guam television universe consists of three licensed television stations, KUAM-TV, KTGM, and KGTF, and one licensed LPTV station, KUAM-LP. There are two unoccupied

² Indeed, the Commission faulted PTI for failing to perfect the channel change, noting in the *Order* that "no such [channel change] application has been filed," at 7.

NTSC allotments, one of which is vacant and has no paired DTV allotment, and the other of which was vacated by deleted facilities. No other allotments come into play (the nearest other U.S. television market is Honolulu, some 3,700 miles east of Guam). The technical parameters of the Guam universe are:

<u>Station</u>	<u>NTSC Allotment</u>	<u>Digital Allotment</u>
Vacant	4*	
KUAM-TV	8	2
DKAXM ³	10	4
KGTF	12*	5*
KTGM	14	17
KUAM-LP ⁴	20	

KGTF has made its initial DTV channel election, Channel 5*.⁵ Neither KUAM-TV nor KTGM has made an initial channel election. There are no out-of-core allotments in Guam, so no second-round election need be anticipated. For purposes of the third-round election KTGM's allotment, Channel 17, would not be affected by the substitution of Channel 10 for KUAM-DT's allotted Channel 2. There is no factual basis for assuming that any Guam television licensee would pursue a negotiated channel arrangement.

No issue of service area, equivalent service area, or maximization of facilities is implicated. Guam is shaped like a footprint about 30 miles in length from northeast to southwest.

³ Unbuilt; facilities deleted, permit canceled, July 3, 2002.

⁴ Channels 14 and 20 are allotted to Tamuning, Guam.

⁵ FCC File No. BFREET-20050125AGH.

It varies from four to 12 miles in width.⁶ The proposed KUAM-DT noise-limited contour and city coverage contour well encompass the entire island of Guam.⁷

On the basis of the foregoing, it can be concluded that waiver of the freeze would have no impact upon the stability of the technical parameters of the Guam television stations.

The substitution of DTV Channel 10 will serve the public interest because Channel 10 facilities can be constructed more economically than facilities on DTV Channel 2. This is because the existing antenna for KUAM-TV was constructed to accommodate and is tuned to broadcast television signals on both Channels 8 and 10.⁸ Therefore, construction of DTV facilities on Channel 10 will not require the purchase and shipment of a new antenna. The existing antenna can be used. PTI can realize cost savings and can apply this savings to other costs of its DTV implementation.

The Commission stated that requests for waiver of the freeze would be considered on a case-by-case basis "when a modification application is necessary or otherwise in the public interest for technical or other reasons to maintain quality service to the public."⁹ PTI submits that this petition for rulemaking is necessary in order to enable PTI promptly to move forward with construction of its DTV facilities. It is perforce in the public interest for PTI to do so and for the Commission to facilitate PTI's undertaking.

⁶ Source: <http://ns.gov.gu/geography.html>.

⁷ See Figure 1 Technical Narrative, attached.

⁸ PTI installed the current antenna after discussions with the former permittee of Television Broadcast Station KAXM, Channel 10. The facilities were never built, and the permit has been canceled. FCC File No. BPCT-19960919KU.

⁹ *Supra* Note 1 at 2.

For these reasons, PTI respectfully requests that the Commission waive the freeze and that it docket, process, and grant this petition for rulemaking.

Petition for Rulemaking

PTI proposes that the DTV Table of Allotments be amended as follows:

	<u>Present</u>	<u>Proposed</u>
Hagåtña, Guam	2, 4, 5	4, 5, 10

KUAM-TV serves Guam's capital city of Hagåtña.¹⁰ The proposed channel substitution would permit PTI to reduce the impact of DTV build-out and operating costs by enabling it to use its existing antenna, which is tuned to broadcast television signals on both Channels 8 and 10.¹¹ Thus, the public interest would be served through enhanced service and more efficient use of the broadcast spectrum.

As demonstrated in the attached Technical Narrative prepared by the consulting engineering firm of du Treil, Lundin & Rackley, Inc., KUAM-DT's proposed service area encompasses the community of license as required.¹² No question exists of interference to any population served.¹³ Because the proposal meets all minimum separation requirements, no interference study is necessary.

¹⁰ Hagåtña, formerly called Agana, is the name of the capital city in the native Chamorro language. Its name was changed April 8, 1998.

¹¹ See Note 8, *supra*.

¹² 47 C.F.R. §73.623(c)(1).

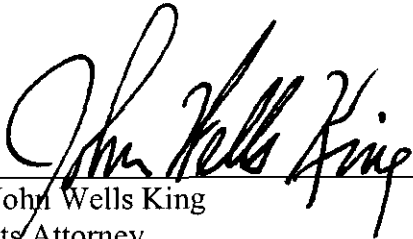
¹³ 47 C.F.R. §73.623(c)(2).

Accordingly, for the reasons set forth above, PTI respectfully requests that the Commission initiate a rule making proceeding to amend Section 73.622(b) of its Rules to substitute channel 10 for channel 2 for use by KUAM-DT in Hagåtña, Guam. The amendment would serve the public interest because the proposed change would enable PTI to provide coverage more economically and would result in a more efficient use of the broadcast spectrum.

Respectfully submitted,

PACIFIC TELESTATIONS, INC.

By:


John Wells King
Its Attorney

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March 25, 2005

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
PETITION FOR RULE MAKING TO
MODIFY THE DTV ALLOTMENT TABLE
STATION KUAM-DT
AGANA, GUAM

Technical Narrative

This Technical Exhibit has been prepared on behalf of television station KUAM-TV, analog channel 8, in Agana, Guam. KUAM-TV was allotted digital channel 2 in the Memorandum Opinion and Order (MO&O) concerning reconsideration of the 6th Report and Order in MM Docket No. 87-268. However, KUAM-DT is seeking to operate on high VHF channel 10 so that it could use its existing antenna. The existing antenna was constructed to accommodate both channels 8 and 10 and therefore the purchase of a new antenna would not be necessary.

KUAM-DT channel 10 can be allotted to Agana in compliance with the principal community coverage requirements of Section 73.625(a) at the following reference coordinates:

13° 25' 53" North Latitude
144° 42' 36" East Longitude

These coordinates are the same as KUAM-TV's current analog site. Operation on DTV channel 10 appears possible with an effective radiated power (ERP) of 630 watts utilizing a non-directional antenna with a height above average terrain (HAAT) of 305 meters and a radiation center of 343 meters above mean sea level (AMSL). These proposed facilities would replicate KUAM-TV's licensed analog Grade B Coverage on channel 8.

Figure 1 is a coverage map showing the noise-limited coverage contour and the city coverage contour for the proposed facility. As shown, all of Agana is encompassed within both contours (2000 Census). Also shown on Figure 1 is the 56 dBu Grade B Coverage contour for the KUAM-TV NTSC operation on channel 8. As shown, the proposed KUAM-DT facility on channel 10 would replicate KUAM-TV's licensed coverage.

Allocation Analysis

A search of all NTSC, Class A and DTV facilities on channels 9, 10, and 11 indicate that there are no stations on these channels within 500 kilometers of the proposed site. Therefore the proposed Rulemaking meets all the minimum separation requirements, and no interference studies are necessary.

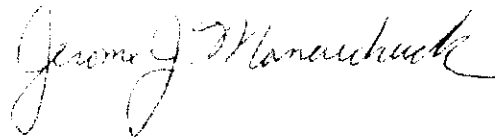
It is proposed to assign the following specifications for KUAM-DT's digital channel operation:¹

State & City	DTV Channel	DTV ERP (kW)	Antenna Radiation Center	Antenna HAAT (m)
GU, Agana	10	0.630 kW	343 m AMSL	305 m
Reference Coordinates: 13° 25' 53 N. Latitude/144° 42' 36" E. Longitude				

It is also proposed to amend the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, as follows:

<u>Channel No.</u>		
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Agana, GU	2,4,5	4,5,10

This instant Rulemaking petition is not contingent upon any pending application for construction permit.

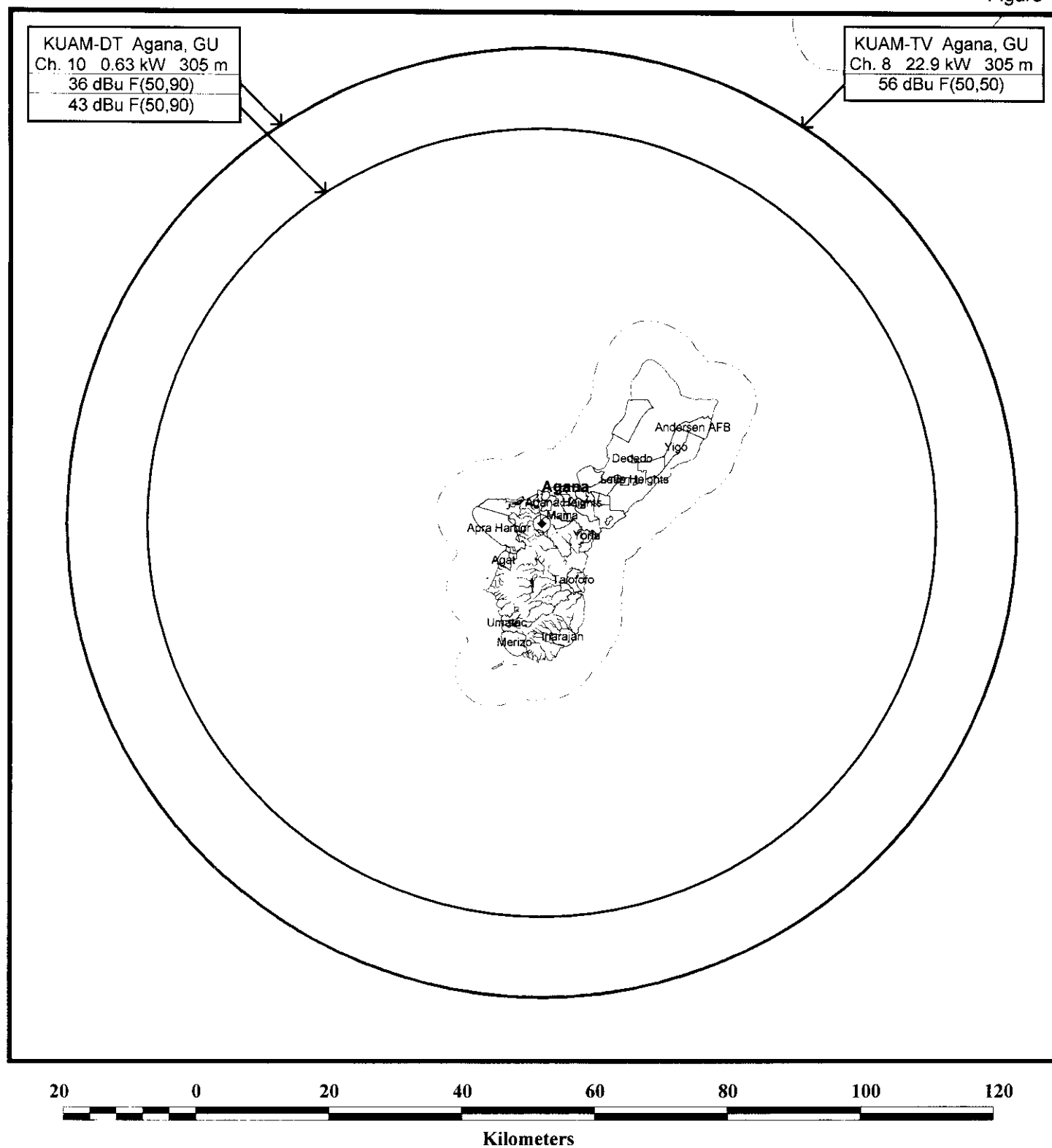


Jerome J. Manarchuck

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237
(941) 329-6000

March 24, 2005

¹ A waiver of the current freeze on the file of petitions for rule making to change DTV channels within the DTV Table of Allotments is attached elsewhere in the petition.



PREDICTED COVERAGE CONTOURS

DTV STATION KUAM-DT
 AGANA, GUAM
 CH 10 0.63 KW 305 M

du Treil, Lundin & Rackley, Inc. Sarasota, Florida